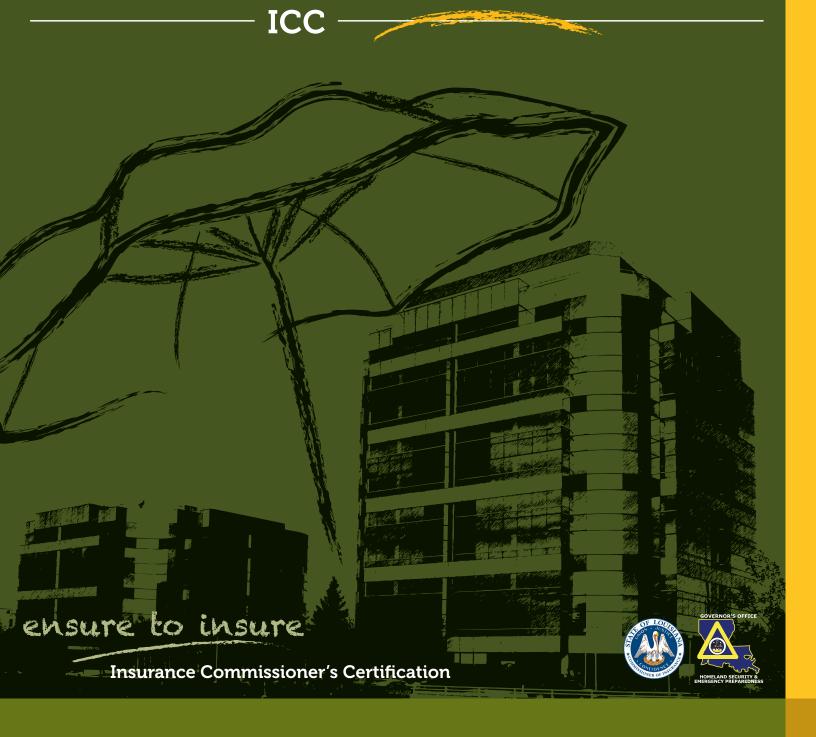
## STAMPORDACT

# Insurance Commissioner's Certification PROCESS



## What YOU need to know NOW!

#### Dear Louisiana Disaster Recovery Stakeholder,

As a **condition** of receiving FEMA Public Assistance (PA) funding, Applicants must **obtain** and **maintain** insurance coverage **at least equal to the amount of the eligible damage** to the facility receiving Federal assistance. This is often called the O & M requirement.

The purpose of the O & M requirement is to **protect** against future loss from the same type of peril.

## INSURANCE COMMISSIONER'S CERTIFICATION (ICC)

Sometimes insurance market conditions prevent your ability to reasonably meet the O & M requirement. The Robert T. Stafford Disaster Relief and Emergency Assistance Act (Stafford Act) then allows you to apply for an Insurance Commissioner's Certification (ICC). The ICC acts as a declaration that some portion of the O & M requirement is not reasonably available to a FEMA Public Assistance (PA) Applicant. It may be the best way to ensure your continued eligibility for FEMA PA funding if you incur damage to insurable assets in a subsequent disaster.

The Louisiana Commissioner of Insurance, working with the Governor's Office of Homeland Security and Emergency Preparedness (GOHSEP), has established criteria you must meet to be eligible for an ICC. This brochure is designed to help you understand the criteria and the process when applying for an ICC.

Check with your risk manager and/or insurance professionals to see if an ICC is right for you. If you believe you qualify for an ICC, you must submit your application and required documentation to GOHSEP.

If the insurance required by the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Stafford Act) is not reasonably available, the Applicant must demonstrate compliance with the Insurance Commissioner's established criteria and follow the Insurance Commissioner's Certification process.







**Insurance Commissioner's Certification** 

**PURPOSE OF THIS PUBLICATION:** To raise awareness and to serve as a job aid so users better understand when and how to apply for an *Insurance Commissioner's Certification* (ICC).

## Why an Insurance Commissioner's Certification (ICC) may be needed

- An Applicant who has not obtained and maintained required insurance (for the full amount of FEMA Public Assistance (PA) eligible damages) in a current disaster is at risk for de-obligation of that funding.
- Eligibility for future FEMA PA funding requires Applicants to *obtain* and *maintain* insurance for **each damaged facility** (in at least the amount of previously eligible damages) that has received FEMA PA funding in a prior disaster of the same type.
- An Applicant that cannot reasonably obtain and maintain the required level of insurance coverage can apply for an *Insurance Commissioner's Certification* (ICC). For future PA eligibility, FEMA will not require greater amounts of insurance than certified as reasonable by the State Insurance Commissioner.
- Facilities that sustained **eligible damages less than \$5,000** do not have an O & M requirement.

#### How it works

An ICC **applies only** to the O & M requirements applicable to the **storm** or **hazard specified** in the application.

Once an Applicant **provides evidence** that the **type** and **extent** of insurance required by the **FEMA PA Program** is **not reasonably available**, the Insurance Commissioner can issue an ICC. It's important to know:

- If granted an ICC, an Applicant must maintain insurance coverage consistent with that in place at the time of the initial certification.
- Should another major disaster strike, resulting in the Applicant's need for additional *Stafford Act* assistance, a **new application** for a certification applicable to that disaster is required.



"... the President shall not require greater types and extent of insurance than are certified to him as reasonable by the appropriate State insurance commissioner..."

"... I hereby certify that commercial insurance coverage for the perils of flood and wind is not reasonably available to Applicants in order to procure property insurance coverage for the full amount of their eligible disaster assistance..."

## Roles and responsibilities

#### **APPLICANT**

You are responsible for risk management.

It is important to know that **private insurance** is the first source of help after a disaster. FEMA Public Assistance (PA) (and other Federal support) is supplemental in nature and available when communities are overwhelmed by a disaster and after insurance benefits and other local or State resources have been exhausted.

#### **INSURANCE COMMISSIONER**

The Louisiana Commissioner of Insurance is charged with determining whether required O & M insurance is reasonably available. Stafford Act Section 311 states, "... the President shall not require greater types and extent of insurance than are certified ... as reasonable by the appropriate State Insurance Commissioner." The Louisiana Commissioner of Insurance issued a Letter to the President July 20, 2010, certifying that certain types and amounts of insurance were not reasonably available to Louisiana FEMA PA Applicants.

**THIS PUBLICATION IS INTENDED:** For any Applicant or entity that has received, or might receive, FEMA Public Assistance (PA) funds; State, Parish, city or other local government officials, including elected leadership, chief administrative officers (CAOs), chief financial officers (CFOs), risk managers and insurance professionals; nonprofits that have received or might receive FEMA PA funds; and other disaster recovery stakeholders.

### Blanket policies . . .

Applicants utilizing **blanket** or **scheduled policies**, **pooling arrangements** and **layered programs** should also consider an ICC.

#### Increased deductibles

In a post-disaster insurance market, insurance carriers attempt to protect themselves from future losses of the same type. One of the methods they use is to **increase deductibles**. This results in a significant increase in out-of-pocket cost to the Applicant in the event of future damage. The Insurance Commissioner stipulates that the deductible cannot exceed 15% of property insurance coverage and cannot be combined with business interruption insurance coverage.

### Not a guarantee . . .

Demonstrating you have met the criteria set by the Insurance Commissioner and followed the process is not a guarantee that an ICC will be granted. If granted, an ICC does not exempt an Applicant from procuring insurance coverage. You still must carry insurance to the extent that it is reasonably available to you.

#### REMEMBER:

- FEMA Public Assistance (PA) is supplemental. It does not replace other assistance (including insurance).
- FEMA PA grants are only provided for Presidentially declared disasters.









## Certification criteria

The ICC process requires that you spend what the Insurance Commissioner has determined is a minimum amount on appropriate insurance coverage based on the **type of entity you are**.

The Governor's Office of Homeland Security and Emergency Preparedness (GOHSEP) has worked closely with the Insurance Commissioner to **develop** a **process** allowing Applicants to pursue an ICC when **full** O & M requirements **cannot reasonably be met**.

The Applicant must **demonstrate compliance** with the criteria set by the Insurance Commissioner and follow the Commissioner's *certification process* to be considered for an ICC.

## NATIONAL FLOOD INSURANCE PROGRAM (NFIP)

- To be considered for an ICC, an Applicant must obtain and maintain the maximum amount of insurance available through the National Flood Insurance Program (NFIP) for:
  - Building and contents for every facility that sustained flood damage as a result of the disaster.

#### MINIMUM INSURANCE BUDGET

An Applicant must allocate a reasonable portion
of its current annual operating budget to the
purchase of property insurance, including wind
and flood, for each of its properties that are the
subject of FEMA PA grants.

- The required yearly minimum insurance budget is expressed as a percent of annual operating budget.
- The percent is defined specifically for **different entities**.
- The schedule established by the Insurance Commissioner for Applicants to use in determining a minimum insurance budget is shown in the table below.
- When calculating a minimum insurance budget ...
  - DO base it on your prior year's audited financial statement.
  - Do NOT include capital outlays.

#### **INSURANCE PROCUREMENT GUIDELINES**

- An Applicant must also follow guidelines defined by the Insurance Commissioner for the type of insurance procured:
  - Obtain and maintain NFIP coverage.
  - Procure property coverage (including wind and other perils, exclusive of flood) up to replacement costs.
  - With remaining funds, procure excess flood coverage.

**NOTE:** Cost of business interruption insurance is separate and cannot be used to meet your percent of budget requirement.

TABLE: Minimum budget for insurance expressed as a percentage of annual operating budget

Organization type	Percentage of operating budget
Local Government	0.33%
Elementary and Secondary Education	0.29%
Post-Secondary Education	0.17%
Health Care	0.26%
Nonprofit Association	2.91%
Nonprofit Trust	1.41%
Nonprofit Religious	2.61%

Please note that this is a minimum percentage schedule for the purpose of determining a reasonable insurance budget. It cannot be used as rationale to reduce insurance if the current expenditure exceeds the listed percentage amounts.

## Contact your risk manager or insurance professional if you think an Insurance Commissioner's Certification (ICC) might be right for you.

### If you have questions regarding an ICC, please contact:



Governor's Office of Homeland Security and Emergency Preparedness (GOHSEP) Insurance Team

Louisiana Department of Insurance (LDI)



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Visit LouisianaPA.com for an ICC application.







